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Updates to Note in Kentucky's Overhaul of Its Financial Services Code and Regulation of Financial Institutions

Kentucky House Bill 726 (the "Act"), relating to the regulation of financial institutions, was signed into law by Kentucky Governor Andy Beshear on April 9, 2024. The Act will go into effect on July 15, 2024, and brings with it some significant changes and restructuring to the Kentucky Financial Services Code. Certain noteworthy updates are detailed below.

Amendments to the Financial Commissioner Position

The Act amends certain powers of the commissioner of the Department of Financial Institutions. The position will be appointed by Governor Beshear, with his initial appointment to be made within 90 days of the effective date of the Act. The Act includes special provisions as to the qualifications of the commissioner and required banking experience, as well as new provisions in the Financial Services Code to establish the authority of the commissioner.[1]

In- and Out-of-State Trust Companies

The Act contains amendments that will modify the requirements for out-of-state trust companies to do business in Kentucky. A newly drafted definition for the term "charter" encompasses out-of-state trust companies, and such companies are not authorized to commence business at the proposed office or offices until the trust company receives a charter from the commissioner. [2] Under the amended statutes, the requirements to do business for in-state trust companies and out-of-state trust companies in Kentucky now align with each other.

The Act also amended the requirements of trust companies doing business outside of Kentucky and limited the scope of activities

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that such companies can engage in when doing business in other states.

Changes to Mortgage Loan License Fees and Annual Assessments

The Act amends the applications and licensing fees for mortgage loan companies and mortgage loan brokers to $2,500 and $1,000, respectively. Additionally, mortgage loan companies now have an annual assessment fee in the range of $1,000 to $15,000 based upon certain volume thresholds. Mortgage loan brokers have an annual assessment fee of $1,000.

Repeal of Certain Statutes Related to Revolving Credit Plans and Installment (Term) Loans

The Act repealed various sections within Subtitles 1, 2, and 3 of KRS 286. Some of the repealed sections relate to the interest rate and fees that can be charged with installment loans and revolving credit plans. The specific repealed sections of note include the following:

- KRS 286.3-215 – Authority to charge interest in advance (Installment Loans)
- KRS 286.3-740 – Financing Charge (Revolving Credit Plan)
- KRS 286.3-750 – Additional Fees (Revolving Credit Plan)

Repeal of Subtitles Covering Savings and Loan Associations, Industrial Loan Corporations, and Title Pledge Lending

The Act repealed in full the subtitles under KRS 286 for Savings and Loan Associations (KRS 286.5), Industrial Loan Corporations (KRS 286.7), and Title Pledge Lending (KRS 286.10), including any authority for the commissioner to grant a charter for these entities.

Miscellaneous Provisions

The Act also touches on topics including, but not limited to, location of branches, operating hours and bank holidays; authority for the commissioner to remove a bank employee from office; access to safety deposit boxes; procedures regarding interstate mergers; and bank officers and directors.

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Under the revised definition, "safe deposit box" means a safe deposit box, vault, receptacle, or other safe deposit facility maintained by the lessor that may be used for safekeeping and storing property and documents.[3]

Commissioners may waive all or any part of the charter requirements outlined in Subtitle 3 if it is created solely for effectuating a merger or consolidation to facilitate the formation of a bank holding company.[4]

National banking associations may convert, merge, or consolidate with a state bank.[5] The requirements or general guidelines for a merger or consolidation plan must be in satisfactory form to the commissioner, prescribe the terms and conditions of the merger or consolidation plan and its mode of effectuation, and provide the name to be borne by the state bank.[6]

This article identifies key provisions of the Act but is not intended as a comprehensive summary. For more information about the Act and the changes within the Kentucky Financial Services Code, please contact the authors or any attorney in Frost Brown Todd's Consumer Financial Services and Consumer Protection team.

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[1] KRS 286.3-010(5); KRS 286.3-146

[2] KRS 286.3-020(2)(a)

[3] KRS 286.2-105(2)

[4] KRS 286.3-020(3)

[5] KRS 286.3-172

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[6] *Id.*

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